

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:22-cv-00023-MR**

VENTURA GARCIA,)	
)	
Petitioner,)	
)	
vs.)	
)	
FNU JAMISON,)	<u>ORDER</u>
)	
Respondent.)	
_____)	

THIS MATTER is before the Court on the Petitioner’s pro se Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241. [Doc. 1].


The Petitioner, a federal prisoner who is presently incarcerated at the Allenwood Federal Correctional Institution in White Deer, Pennsylvania, filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 that was docketed in this civil action on February 7, 2022. [Doc. 1]. Petitioner did not pay the \$5.00 filing fee or apply to proceed in forma pauperis. The Clerk of Court mailed the Petitioner a Notice of Deficiency on February 10, 2022, instructing the Petitioner to pay the fee or return an in forma pauperis application within 21 days. [Doc. 2]. The Petitioner was cautioned that the failure to timely comply “may result in the dismissal of this action without prejudice for failure to prosecute.” [Id. at 1].

The Petitioner has not complied with the February 10th Order, and the time to do so has expired. The Petitioner appears to have abandoned this action, and the Court is unable to proceed. This case will therefore be dismissed without prejudice.¹ See Fed. R. Civ. P. 41(b) (“If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it.”); Link v. Wabash R.R. Co., 370 U.S. 626, 630-33 (1962) (although Rule 41(b) does not expressly provide for sua sponte dismissal, Rule 41(b) does not imply any such restriction and a court has the inherent power to dismiss a case for lack of prosecution or violation of a court order).

IT IS, THEREFORE, ORDERED that this action is **DISMISSED WITHOUT PREJUDICE**.

IT IS FURTHER ORDERED that the Clerk of Court is directed to terminate this action.

IT IS SO ORDERED. Signed: March 17, 2022



Martin Reidinger
Chief United States District Judge



¹ Moreover, it appear that this action should have been filed in the Middle District of Pennsylvania, where the Petitioner is incarcerated.